

Priority

The Examiner states that Applicants have not perfected the priority of the present application and requests submission of a "ribboned copy" of the priority document. Applicants point out that they submitted a certified copy of European Patent Application No. 00400463.6 filed on February 21, 2000 with their May 17, 2001 claim for priority. The cover page of the priority document contains a certification that "[t]he attached documents are exact copies of the European Patent Application described on the following page, as originally filed." ILC Hatten-Heckman made the certification for the president of the European Patent Office and signed his name to that effect in the lower right hand corner of the first page of the priority document. At one time, the European Patent Office provided ribboned and sealed copies of the priority document but no longer do so. They now provide the certification described above in lieu of the ribboned and sealed copy. Accordingly, applicants request that the Examiner accept the May 17, 2001 claim for priority with the attached certified copy of the priority document.

Information Disclosure Statement

The Examiner states that she has not considered the information referred to in Applicants' February 4, 2002 Information Disclosure Statement since it allegedly fails to comply with 37 CFR § 1.98(a)(3). The Examiner finds that the Information Disclosure Statement does not include a concise explanation of the relevance of each non-English document, specifically noting European Patents 0 362 929 and 366 473B1 [sic] do not have English language translations. Applicants believe the Examiner intended to refer to EP 0 222 683 in this regard and not EP 0 366 473B1 which is an English language document. Applicants have not submitted English language translations of European

Patents 0 362 929 and 0 222 683 listed and included with the Information Disclosure Statement, but point out the balance of the documents are in English. The Examiner, however, acknowledged she considered all of the references by initialing them, (including European Patents 0 362 929 and 0 222 683) on applicants' Form PTO 1449 returned by the Examiner with her August 28, 2002 office communication.¹

Applicants therefore request that the Examiner confirm she has considered all of the English language documents submitted with the Information Disclosure Statement and clarify her position with regard to the non-English language documents, European Patents 0 362 929 and 0 222 683.

The Rejection Under 35 U.S.C. § 102 and Traverse

The Examiner rejects claims 53-67 and 83-99 under 35 U.S.C. § 102(e) as anticipated by Caimi, United States Patent No. 6,339,189. Applicants traverse the rejection and request further consideration and reexamination.

Claim 53 of the present application relates to a low-voltage electrical cable having fire-resistant and water-resistant properties. The cable has a conductor and a first inner layer to protect the conductor against water. The inner layer comprises a cross-linked or uncross-linked polymer coating that does not contain halogen.

The cable also has an outer layer which comprises a blend of (1) a crystalline polypropylene (a) homopolymer or (b) copolymer and (2), a copolymer of (a) ethylene and (b) at least one alpha olefin optionally with (c) a diene. Additionally, the outer layer

¹ The bottom of Form PTO 1449 states "[I]nitial if reference considered, whether or not citation is in conformance with MPEP 609; draw a line through citation if not in conformance and not considered. Include copy of this form with next communication to Applicant."

includes an agent having fire-retardant properties. Page 6, 7 and 9 of the written description further describe these agents with fire-resistant properties, whereas Claim 64 claims them as either magnesium hydroxide or aluminum hydroxide or mixtures thereof. Importantly, the present invention claims the electrical cable with a "ratio of the thickness of the outer layer and the inner layer being from 1 to 7," which means that the outer layer and the inner layer are either the same thickness, or the outer layer is up to 7 times as thick as the inner layer. The Examiner apparently has construed this as a ratio of the thickness of the outer layer to the inner layer of being from 1 to 7 which is not what applicant claims, but rather a ratio of the thickness of the outer layer and the inner layer being from 1 to 7.

Page 4 of the written description of the present application also describes this range, further exemplifying it by setting out in one instance an outer layer having a thickness from 0.25 to 2 mm and an inner layer having a thickness from 0.05 to 1 mm, i. e., a cable with an outer layer thickness greater than the thickness of the inner layer. Also, Table 2 shows the advantage of having the thickness of the outer layer greater than the inner layer. Sample "C" in this table has an outer layer of 0.2 mm and an inner layer of 0.5 mm but did not pass the fire propagation test, IEC 332.3C of March 1992. Sample "B" having an outer layer of 0.5 mm and inner layer of 0.2 mm, however, did pass this test.

Caimi does not teach this but rather discloses at column 10, lines 15-28, as pointed out by the Examiner, that the Caimi cable has an outer layer thickness of 0.2 mm and an inner layer thickness of 0.4 mm, the opposite of what the present application teaches and claims, i.e., Caimi describes the inner layer as thicker than the outer layer.

At the top of page 4 of the Office Action, the Examiner argues that the Caimi shows a "ratio of thickness of the outer and inner layer are from 1 to 5," however, as explained above, Caimi does not contain this teaching, but rather a ratio of thickness of the outer to the inner layer from 1 to 5. Applicants therefore request the Examiner to withdraw the rejection under 35 U.S.C. § 102(e) in view of the foregoing distinctions of the Caimi reference.

The Rejection Under 35 U.S.C. § 103 and Traverse

The Examiner rejects claims 53, 56-67, 83 and 86-97 under 35 U.S.C. § 103(a) as unpatentable over Castellani et al. United States Patent No. 6,162,548 ("Castellani") in view of Hudson, United States Patent No. 6,255,594. Applicants traverse the rejection and request further consideration and reexamination.

Applicants distinguish Castellani for the reasons given by the Examiner on page 5 of the Office Action that the reference does not disclose a ratio of thickness between the layers of 1:7. The Examiner, however, cites the Hudson reference, claiming the Patentee discloses a ratio of thickness between the layers of 1:5 in columns 6, lines 60-65 by the description of a copper conductor encased within a 0.245 mm layer of polyethylene insulation and an outer layer of 50 "micrometres." The Examiner contends this makes the ratio of thickness between the outer layer and the inner layer approximately 1:5. Applicants respectfully disagree. The 50 "micrometre" outer layer amounts to a 50 micron layer i.e., 50×10^{-6} meters or 50 millionths of a meter compared to the 0.0245×10^{-3} meters (245×10^{-6} meters) inner layer on the copper conductor of Hudson. Although this amounts to a ratio of thickness between the outer layer and the inner layer of approximately 1:5 as the Examiner asserts on page 5 of the Office Action,

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this is just the opposite of the present invention, which by contrast calls for the outer layer to be thicker (or at least as thick) as the inner layer. Hudson, like Caimi describes the relation of the outer layer to the inner layer in a manner contrary to applicants' claim that the outer layer has to be either the same thickness or thicker than the inner layer, i. e., applicants claim a cable with an outer layer and an inner layer with the ratio of the thickness of the outer layer and the inner layer being from 1 to 7.

The combined teachings of Castellani and Hudson therefore do not make Applicants' invention obvious under 35 U.S.C. § 103(a).


Conclusions

Applicants therefore request that the Examiner withdraw the rejections in view of the foregoing Amendments and Remarks. If entry of this amendment requires an extension of time pursuant to 37 C.F.R. § 1.136 and payment of an extension fee or other fee any of which this Amendment does not account for, Applicants' attorneys request such an extension and payment of any fees due from their deposit account 06-0916.

Respectfully submitted,

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By: 
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